

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

BLAKE J. WATTERSON,

*Plaintiff,*

v.

BUREAU OF ALCOHOL, TOBACCO,  
FIREARMS, AND EXPLOSIVES, *et al.*,

*Defendants.*

No. 4:23-cv-80-ALM

**DEFENDANTS' NOTICE OF SUPPLEMENTAL AUTHORITY**

Defendants respectfully notify this Court of an opinion that the United States District Court for the Eastern District of Virginia issued on May 26, 2023, in *Miller v. Garland*, No. 1:23-cv-195 (E.D. Va.), attached hereto as Exhibit A. In that opinion, the court denied the plaintiff's motion to temporarily restrain and preliminarily enjoin the Bureau of Alcohol, Tobacco, Firearms, and Explosives' enforcement of the same rule challenged in this litigation, *Factoring Criteria for Firearms With Attached "Stabilizing Braces,"* 88 Fed. Reg. 6,478 (Jan. 31, 2023). The court held that the plaintiff had not demonstrated a substantial likelihood of success on the merits of any of his claims. *Compare Miller v. Garland*, --- F. Supp. 3d ---, 2023 WL 3692841, at \*3–4 (E.D. Va. May 26, 2023) (statutory authority); *id.* at \*9 (major questions doctrine); *id.* at \*10–12 (Second Amendment), *with* Pl.'s Mot. for Relief Under 5 U.S.C. § 705 or, Alternatively, for a Prelim. Inj. at 8–10, ECF No. 15 (statutory authority); *id.* at 8–9 (major questions doctrine); *id.* at 3–5 (Second Amendment).

Dated: May 30, 2023

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

BRIGHAM J. BOWEN

Assistant Branch Director

/s/ Jody D. Lowenstein

JODY D. LOWENSTEIN (MT Bar No. 55816869)

MICHAEL DREZNER (VA Bar No. 83836)

TAYLOR PITZ (CA Bar No. 332080)

Trial Attorneys

U.S. Department of Justice

Civil Division, Federal Programs Branch

1100 L Street NW

Washington, DC 20005

Phone: (202) 598-9280

Email: jody.d.lowenstein@usdoj.gov

*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

On May 30, 2023, I electronically submitted the foregoing document with the Clerk of Court for the U.S. District Court, Eastern District of Texas, using the Court's electronic case filing system. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Jody D. Lowenstein  
Trial Attorney  
U.S. Department of Justice